**Administrative Preparedness Legal Guidebook**

**Background and Introduction**

Administrative preparedness, an often-overlooked component of public health preparedness, is the process of ensuring that fiscal, legal, and administrative authorities and practices governing funding, procurement, contracting, and hiring can be modified, accelerated, and streamlined during an emergency to support public health preparedness response and recovery efforts. Though many laws, policies, and procedures impacting administrative preparedness are available in most jurisdictions, only about half of local health department emergency preparedness coordinators are aware of their existence.[[1]](#footnote-1) Additionally, nearly half do not have, or are unsure whether they have, a formal written administrative preparedness plan.[[2]](#footnote-2) A lack of knowledge regarding these available options can cause undue delays in the acquisition of goods and services, hiring or assignment of personnel, disposition of emergency funds, and determination of laws needed to implement health and protective measures, potentially resulting in major consequences for communities facing public health emergencies.

The National Association of County and City Health Officials (NACCHO) developed this legal guidebook to assist public health professionals improve their department’s administrative preparedness capabilities and ensure that its administrative operations support response activities by encouraging collaborative preparatory work among preparedness, legal, human resources, procurement, and other staff.

**How to Use this Guidebook**

While the *Administrative Preparedness Legal Guidebook* is geared towards local health departments, many of its guiding principles can be scaled to assist decision-makers at the state level. This guidebook contains four sets of standalone tools (e.g., decision-aids and visual pathways) that help users incorporate their jurisdiction’s individual laws, policies, and procedures into a formal written administrative preparedness plan:

* Emergency Declaration Toolset: Supports health department decision-making processes for considering, implementing, or reviewing the use of state/local emergency declarations
* Emergency Procurement Toolset: Assists efforts to quickly procure resources during public health emergency response and recovery
* Expedited Staffing Toolset: Provides guidance for determining if/when an agency should expedite hiring, volunteer organization, or reassign personnel
* Mutual Aid Agreement and Memorandum of Understanding Toolset: Outlines steps for requesting aid from collaborating jurisdictions or entities participating in mutual aid agreements or memoranda of understanding

Each toolset may be utilized independently and follows no specific order. Please refer to the instructions below to maximize their value:

* Decision-aids
	+ Begin using each decision-aid with “Question #1”
	+ Please read the question and corresponding answers in their entirety before answering each question
	+ Answer each question using “yes” or “no” responses and closely follow the instructions. Some answers will instruct users to proceed to the following question while others will refer to a different document or suggest alternative courses of action
	+ Consult with legal counsel and other relevant staff (e.g., procurement, human resources, health department administration, etc.) to identify and insert appropriate state and local laws, policies, or procedures into the underlined locations in the decision-aid tools
	+ Use decision-aid in conjunction with its corresponding visual pathway from the same toolset to gain high-level perspective on progression through the described process
* Visual Pathways
	+ Start by reading and answering the first question featured in pathway
	+ Follow the path matching your response to the most recently answered question and continue to follow the pathway until you have answered all the questions
	+ Use visual pathway in conjunction with its corresponding decision-aid from the same toolset to gain additional insight regarding suggested courses of action, state/local law, policies, and procedures

Additional NACCHO resources and other sources are included in this guidebook to help you develop administrative preparedness capabilities.

Always consult with legal counsel for jurisdiction-specific legal advice regarding preparedness or other areas of public health.

Thank you for using the NACCHO Administrative Preparedness Legal Guidebook **[[3]](#footnote-3)**

Emergency Declaration Toolset

Emergency declarations are considered to be the most comprehensive of all administrative preparedness authorities. These declarations can be used to modify or waive laws, policies, or procedures relating to administrative preparedness, including procurement, staffing, and reporting. These legal and regulatory requirements have been cited as potential barriers to rapid emergency response.[[4]](#footnote-4) Please refer to NACCHO’s Report: *Administrative Preparedness Authorities: Suggested Steps for Health Departments* for further details related to emergency declarations (May be found within Administrative Preparedness Resources section of Legal Guidebook).

The Emergency Declaration Decision-aid will help support your health department’s process of determining whether there is a need to declare or request a declaration of an emergency.

Before you begin customizing the tool for use, identify and collaborate with health department staff, legal counsel, and other individuals who would provide assistance during the declaration process to fill out this decision-aid tool.

**Emergency Declaration Decision-aid Tool**

**Question #1:** Does the current situation exceed your health department’s ability to maintain the public’s health?

* If yes, proceed to Question #2.
* If no, address the current situation within your health department’s regular capacity.

**Question #2:** Based on the text *Insert relevant State/Local Legal Citation(s) regarding State/Local Emergency Declarations*, could local governments declare a public health, all-hazards, or other disaster related emergency?

* If yes, proceed to Question #3.
* If no, a local emergency cannot be declared. Consider the use of tools and options available to your health department during non-emergency situations (organizational partnerships, Memoranda of Understanding (MOUs), Mutual Aid Agreements (MAAs), EMACs, etc.). Additionally, consult with state authority to identify an appropriate alternative course of action.

**Question #3:** Based on the text *Insert relevant State/Local Legal Citation(s) regarding State/Local Emergency Declarations*, does the current situation meet requirements for making a public health, all-hazards, or other disaster related emergency declaration?

* If yes, proceed to Question #4.
* If no, a local emergency cannot be declared. Consider the use of tools and options available to your health department during non-emergency situations. Additionally, consult with state authority to identify an appropriate course of action.

**Question #4:** Based on the text *Insert relevant State/Local Legal Citation(s) regarding State/Local Emergency Declarations*, do the powers resulting from a public health, all-hazards, or other disaster related emergency declaration provide potential remedies to the current situation?

* If yes, proceed to Question #5.
* If no, determine whether a local emergency should be declared by considering the use of tools and options available to your health department during non-emergency situations. Additionally, consult with state authority to identify an appropriate course of action.

**Question #5:** Refer to *Relevant State/Local Legal Citation(s) regarding State/Local Emergency Declarations* to determine who can declare an emergency within your local jurisdiction. Does the law provide that the local health officer can declare a public health, all-hazards, or other disaster related emergency?

* If yes, proceed to Question #6.
* If no, proceed to Question #7.

**Question #6:** Identify and contact a local health officer to determine an appropriate course of action. Does the local health officer agree to issue an emergency declaration?

* If yes, work with a local health officer to determine appropriate emergency declaration language, appropriate length of emergency based on what is permitted by law, and identify the process for declaring an emergency. Begin emergency operations of your local health department:
	1. File with county or city clerk.
	2. Activate the emergency response plan in your local jurisdiction.
	3. Take appropriate measures to protect public health as empowered by statute.
	4. Activate any appropriate MOUs or MAAs.
	5. Consult state disaster management authority if necessary.
	6. Proceed to Question #8.
* If no, consider the use of tools and options available to your health department during non-emergency situations. Additionally, consult with state authority to identify an appropriate course of action.

**Question #7:** Identify and contact the appropriate authority identified in *Relevant State/Local Legal Citation(s) regarding State/Local Emergency Declarations* to determine an appropriate course of action. Does the identified authority agree to issue an emergency declaration?

* If yes, work with authority and counsel to determine the appropriate emergency declaration language, appropriate length of emergency based on what is permitted by law, and identify the process for declaring an emergency. Begin emergency operations of your local health department:
1. File with county or city clerk.
2. Activate the emergency response plan in your local jurisdiction.
3. Take appropriate measures to protect public health as empowered by statute.
4. Activate any appropriate MOUs or MAAs.
5. Consult state disaster management authority if necessary.
6. Proceed to Question #8.
* If no, consider the use of tools and options available to your health department during non-emergency situations. Additionally, consult with state authority to identify an appropriate course of action.

**Question #8**: Has the emergency ceased to exceed your health department’s ability to effectively maintain the public’s health?

* If yes, consider ending the state of emergency through the proper authority.
* If no, continue emergency operations.

**Emergency Declaration Visual Pathway**

Continue normal operations

No

Does situation exceed your ability to protect the public health?

Yes

According to state or local Statues/Policies/Procedures, could a local government declare a public health, all-hazards, or other emergency?

No

Yes

No

Does current situation meet requirements for making a public health, all-hazards, or other disaster related emergency declaration?

Yes

Do the enumerated powers resulting from an emergency declaration provide potential remedies to the current situation?

No

Yes

It is possible that a local emergency declaration may not be declared. Review relevant law with attorney and consult relevant state/local authorities to identify potential alternative actions

Does local health officer, or other relevant authority, agree to issue an emergency declaration?

Yes (next page)

Review relevant law with attorney and consult relevant state/local authorities to identify potential alternative actions

No

Does local health officer agree to issue an emergency declaration?

Yes

File declaration with appropriate governmental office and take appropriate actions as dictated by law

**Disclaimer**
Do not solely rely on this document during an emergency. Please work with your counsel when completing and using this tool.

1. NACCHO 2015 Preparedness Profile Assessment [↑](#footnote-ref-1)
2. NACCHO 2016 Preparedness Profile Assessment [↑](#footnote-ref-2)
3. This guidebook was made possible through the support of the Centers for Disease Control and Prevention (CDC), cooperative agreement #5U38OT000172-05-00. NACCHO is grateful for this support. The views expressed within do not necessarily represent the official views of the CDC. [↑](#footnote-ref-3)
4. Yeager, VA, Hurst, D, and Menachemi, N. State Barriers to Appropriating Public Health Emergency Response Funds During the 2009 H1N1 Response. American Journal of Public Health, Supplement 2, 2015, Vol. 105, No. S2. [↑](#footnote-ref-4)